IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

Bail Appl..No. 4159 of 2007()

(CRIME NO.81/2007 OF THE VATTIYOORKAVU POLICE STATION)

: PETITIONER

R.THULASIDHARAN @ THULASI, AGED 76,
S/O. MADHAVAN, RESIDING AT THOZHUVANKODE CHAMUNDI DEVI TEMPLE, THOZHUVANKODE, VATTIYOORKAVU.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS:

---

1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI.

2. THE CIRCLE INSPECTOR OF POLICE,
VATTIYOORKAVU POLICE STATION, VATTIYOORKAVU.

BY PUBLIC PROSECUTOR ADV.SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

= = = = = = = = = = = = = =

B.A.No.4159 of 2007

= = = = = = = = = = = = = =

Dated this the 11th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner is said to be a person aged about 76 years, allegedly a respectable gentleman managing the affairs of the local temple. The crime has been registered by the Vattiyoorkavu Police,inter alia under Section 307 IPC. The crux of the allegations is that the miscreants who came in a motor cycle attacked the defacto complaint. The defacto complainant suspects one of the assailants to be a named person. That person is not available for interrogation. The petitioner apprehends that he may be arrested as an accused in that crime. He submits that he has no criminal antecedents at all. He leads a respectable life. The Police are summoning the petitioner to the Police Station. The petitioner apprehends that he may be arrested, after arraying him as an accused. It is in these circumstances, prayed that directions under Section 438 Cr.P.C. may be issued in favour of the petitioner.

2. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the petitioner has not so far been arrayed as an accused. No tangible material has been collected so far, which would justify any indictment or allegations against the

petitioner, but the Police are in the dark about the real assailants. Investigation has to go on to ascertain the identity of the assailants as also persons, if any, who abetted and conspired to make the attack possible. The police have a clue which shows that the assailants uttered words which suggest the involvement of one Tulsi. The petitioner is Thulaseedharan. In these circumstances, though at the moment no allegations are raised against the petitioner, the Police do not rule out the possibility of the petitioner being involved in the crime. The petitioner has been summoned to appear. He has not so far appeared. He must appear before the Investigating Officer. The learned Public Prosecutor submits that it is idle to assume that the police would arrest the petitioner unless satisfactory materials are revealed in the course of investigation. Possibility of such arraying of the petitioner cannot be ruled out. Grant of anticipatory bail to the petitioner would stultify the needs of an effective and efficient investigation. In these circumstances, it is not necessary to grant anticipatory bail to the petitioner . He may be directed to appear before the Police and cooperate with the investigation. The learned Public Prosecutor asserts that unless there are satisfactory materials revealed against the petitioner, he shall not be arrested. There is no possibility of any vexation to the petitioner, if he appears, it is

submitted.

3. I have considered all the relevant inputs. I find merit in the opposition by the learned Public Prosecutor. I am not persuaded to agree that it is necessary in the interests of justice to permit the petitioner to arm himself with an order of anticipatory bail. The petitioner will have to be effectively interrogated to ascertain whether he has any role in the incident or whether he can give any clues about the assailants. I find no reason to assume that the Police would invoke their powers to arrest the petitioner, with mala fide motives.

4. In the result this petition is dismissed with the observation that the petitioner must co-operate with the Investigators and make himself available for investigation and when required.

(R.BASANT, JUDGE)

sj